

## **REMARKS**

### **I. Present Status of Patent Application**

Claims 1 through 32 are currently pending.

Claims 1 through 32 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious in view of Fijolek *et al.* (U.S. Patent Number 6,510,162, hereinafter "Fijolek") and Maeshima *et al.* (U.S. Patent Number 6,092,113, hereinafter "Maeshima").

### **II. Withdrawal of Finality of Previous Office Action**

Applicant thanks the Examiner for the withdrawal of the finality of the previous office action.

### **III. Discussion of Rejections**

#### ***A. Rejection of Claims 1 Through 32 Under 35 U.S.C. § 103(a)***

The Office Action rejects claims 1 through 32 under 35 U.S.C. § 103(a) as being unpatentable over Fijolek and Maeshima. For at least the reasons set forth below, Applicant traverses this rejection.

#### **1. Independent Claim 1**

Applicant submits that claim 1 is neither anticipated nor obvious in view of Fijolek and Maeshima.

The Examiner admits that "Fijolek does not explicitly teach establishing a subnet connection . . . ." However, the Office Action alleges that Maeshima teaches the establishing of

"subnet connections." Hence, the Office Action alleges that Maeshima, in conjunction with Fijolek, renders claim 1 obvious. Insofar as Applicant disagrees with the interpretation of Maeshima, Applicant respectfully submits that claim 1 is patentable.

Claim 1 recites, in relevant part:

1. A method for transporting Internet Protocol data . . . ,  
comprising the steps of:  
    establishing a subnet connection . . . ;  
    receiving at the headend a request for an Internet Protocol connection . . . ;  
    assigning at the headend an Internet Protocol address . . .  
for the duration of the Internet Protocol connection . . . .

Applicant's claim 1 (emphasis supplied).

As evidenced from the explicit language of claim 1, Applicant distinguishes between a subnet connection and an Internet Protocol (IP) connection. In that regard, the Office Action cannot ignore this distinction and conflate the two phrases. In other words, given the distinct use of subnet connection and IP connection in claim 1, the Office Action cannot interpret these two phrases to be coterminous. Unfortunately, it appears that the Office Action does indeed ignore the distinction, insofar as the Office Action equates Maeshima's "IP tunnel" (or "virtual private network (VPN)") with Applicant's "subnet connection."

As explicitly taught by Maeshima, "the IP tunnel is a section where a packet exists, wherein said packet is constructed by adding or encapsulating, to an original packet, an IP header which has an IP address of the router 300A and an IP address of the router 300B (a start point and an end point of the IP tunnel 101)." Maeshima at column 3, lines 4-9. In other words, the IP tunnel is defined by the IP addresses of the start point and the end point.

Unlike Maeshima's IP tunnel, which is an IP connection between two endpoints, Applicant's subnet connection is wholly distinct from an IP connection, as evidenced by the

distinct use of those phrases in claim 1. In that regard, Maeshima's teaching of an IP connection cannot, without more, be construed to be a subnet connection. Thus, Applicant respectfully submits that Maeshima fails to teach the establishing of a "subnet connection" as required by claim 1.

The Examiner admits that Fijolek fails to teach the step of "establishing a subnet connection." Insofar as Maeshima also fails to teach the step of "establishing a subnet connection," Applicant respectfully submits that the combination of Fijolek and Maeshima necessarily fails to teach the step of "establishing a subnet connection."

Since both Fijolek and Maeshima, either alone or in combination, fails to teach the step of "establishing a subnet connection," Applicant respectfully submits that claim 1 is allowable over both Fijolek and Maeshima. Therefore, Applicant respectfully requests allowance of claim 1.

## **2. Independent Claim 9**

Applicant submits that claim 9 is neither anticipated nor obvious in view of Fijolek and Maeshima. The Examiner admits that "Fijolek does not explicitly teach establishing a subnet connection . . . ." The Office Action, however, alleges that Maeshima teaches the establishing of "subnet connections." Hence, the Office Action alleges that Maeshima, in conjunction with Fijolek, renders claim 9 obvious. Insofar as Applicant disagrees with the interpretation of Maeshima, Applicant respectfully submits that claim 9 is not obvious.

As noted above, a subnet connection is distinct from an IP connection. Thus, the phrase "subnet connection" cannot be interpreted to be coextensive with the phrase "IP connection." Because neither Fijolek nor Maeshima, either alone or in combination, teach a "subnet

connection" as recited in claim 9, Applicant respectfully submits that claim 9 is allowable.

Hence, Applicant respectfully requests allowance of independent claim 9.

### **3. Independent Claim 10**

Applicant submits that claim 10 is neither anticipated nor obvious in view of Fijolek and Maeshima. Since Fijolek and Maeshima, either alone or in combination, fails to teach a "subnet connection" as recited in claim 10, Applicant respectfully submits that claim 10 is allowable.

Thus, Applicant respectfully requests allowance of independent claim 10.

### **4. Independent Claim 12**

Applicant submits that claim 12 is neither anticipated nor obvious in view of Fijolek and Maeshima. The Office Action alleges that Maeshima teaches a "subnet connection," which renders claim 12 obvious. However, Applicant respectfully submits that this allegation is irrelevant, insofar as claim 12 includes no mention of a "subnet connection." Applicant reiterates the position from the response to the previous Office Action.

For at least this reason, Applicant respectfully submits that claim 12 is allowable and, therefore, respectfully requests allowance of independent claim 12.

### **5. Independent Claim 18**

Applicant submits that claim 18 is neither anticipated nor obvious in view of Fijolek and Maeshima. The Examiner admits that "Fijolek does not explicitly teach establishing a subnet connection . . . ." As noted above, Maeshima also does not teach a "subnet connection." Hence,

the combination of Fijolek and Maeshima cannot teach a "subnet connection."

Since Fijolek and Maeshima, either alone or in combination, fail to teach a "subnet connection" as recited in claim 18, Applicant respectfully submits that claim 18 is allowable. Applicant, therefore, respectfully requests allowance of independent claim 18.

#### **6. Independent Claim 21**

Applicant submits that claim 21 is neither anticipated nor obvious in view of Fijolek and Maeshima. Since neither Fijolek nor Maeshima, either alone or in combination, teaches a "subnet connection" as recited in claim 21, Applicant respectfully submits that claim 21 is allowable. Therefore, Applicant respectfully requests allowance of independent claim 21.

#### **7. Dependent Claims 2-8, 11, 13-17, 19, 20, and 22-32**

Claims 2 through 8 depend from allowable independent claim 1; claim 11 depends from allowable independent claim 10; claims 13 through 17 depend from allowable independent claim 12; claims 19 and 20 depends from allowable independent claim 18; and claims 22 through 32 depend from allowable independent claim 21. Applicant respectfully submits that, insofar as claims 2-8, 11, 13-17, 19, 20, and 22-32 depend from allowable independent claims, for at least this reason, claims 2-8, 11, 13-17, 19, 20, and 22-32 are allowable. Applicant, therefore, respectfully requests allowance of claims 2-8, 11, 13-17, 19, 20, and 22-32. In addition, Applicant does not intend to admit anything regarding any other statements in the Office Action that is not explicitly referenced in this response.

#### **IV. Cited References Made of Record**

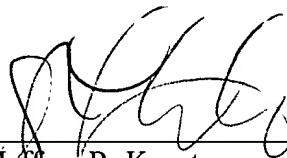
The cited references made of record have been considered, but are not believed to affect the patentability of the presently pending claims.

### CONCLUSION

Applicant respectfully submits that all claims are now in proper condition for allowance, and respectfully requests that the Examiner pass this case to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 20-0778.

Respectfully submitted,



Jeffrey R. Kuester  
Registration No. 34,367

**THOMAS, KAYDEN,**  
**HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500